

SENATE BILL 3071

By Henry

AN ACT to amend Tennessee Code Annotated, Section 4-5-325, relative to contested cases.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-5-325, is amended by deleting the section in its entirety and by substituting instead the following language as a new section:

Section 4-5-325.

(a) When a state agency takes enforcement or disciplinary action or any other action under §4-5-307, against a person, local governmental entity, board or commission for the violation of a rule, regulation or statute and such action results in a contested case hearing, at the conclusion of such hearing, the hearing officer or administrative law judge may order such agency to pay to the party the action was taken against the amount of reasonable expenses incurred because of such action, including a reasonable attorney's fee, if such officer or judge finds that the action was taken:

(1) Even though, to the best of such agency's knowledge, information and belief formed after reasonable inquiry, the action was not well grounded in fact and was not warranted by existing law, rule or regulation; or

(2) For an improper purpose such as to harass, to cause unnecessary delay or cause needless expense to the party the action was taken against.

(b) If a final decision in a contested case hearing results in the party action was taken against seeking judicial review pursuant to §4-5-322, the judge, at the conclusion of the hearing, may make the same findings and enter the same order as permitted the hearing officer or administrative law judge pursuant to subsection (a).

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.